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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,826	11/14/2003	Karapet Ablabutyan	23451-046	3211

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EXAMINER

KEENAN, JAMES W

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/714,826	<b>Applicant(s)</b> ABLABUTYAN ET AL.	
	<b>Examiner</b> James Keenan	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 21-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/14/03</u> . | 6) <input type="checkbox"/> Other: _____  |

1. Applicant's election without traverse of Group I, claims 1-20, in the reply filed on 12/12/05 is acknowledged.
2. Claims 21-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/12/05.
3. The information disclosure statement filed 11/14/03 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

This applies only to the non-patent literature documents on page 5.

4. The disclosure is objected to because of the following informalities: the status of the parent application as U.S. Patent No. 6,948,903 should be added to the beginning of the specification.

Appropriate correction is required.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2 and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the recitation of "bolting said ... frame adapter to ... the platform" is an improper positive recitation of an element (the platform) which is only inferentially referred to in claim 1 as part of a *for use* statement. Thus it is not clear if the platform is a required feature of the claim.

In claims 12-14, there is no clear antecedent basis for "the vehicle body".

In claim 13, it is not clear what is meant by or in what manner the extension plate is "adjusted to be coplanar".

In claim 14, it is not clear what is meant by "prior to .. being attached", in that base claim 11 is directed to a cantilever lift gate apparatus, not a method of attaching same to a vehicle.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1, 2, and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al (US 5,641,262, cited by applicant) in view of Jensen (US 6,082,958).

Dunlop shows a lifting apparatus for attachment to a vehicle platform, including unitary frame 1 having side plates 3A, 3B and extension plate 5, lift frame 81 including pivot member 91 and rotatable load carrying plate 87, and frame adapters 7A, 7B attached to the side plates with inherent but undisclosed fastening devices.

Dunlop does not show the frame adapters to include first and second perpendicular segments nor is there any showing of the fastening devices attaching the frame adapters to the side plates via corresponding apertures and orifices.

Jensen shows a similar lifting apparatus which is attached to a vehicle platform by adapters 24, 25 (figure 3) comprised of first and second perpendicular segments, wherein fastening devices such as "screw means" attach the adapters to side plates 20, 21 of the lifting frame through corresponding apertures and orifices.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Dunlop with adapters comprised of perpendicular segments and which attached to the lift frame side plates through

corresponding apertures and orifices, as shown by Jensen, as this would merely be an art recognized alternate equivalent means of attaching the adapters to the lift frame.

Re claim 2, the use of bolts to attach the adapters to the vehicle platform, if not encompassed by the "screw means" of Jensen, is considered a mere design choice.

Re claim 6, note element 83 of Dunlop which, even though not explicitly disclosed as a motion limiting device, could operate without modification to limit motion of the load plate.

Re claim 7, note hydraulic actuator 31 of Dunlop.

Re claims 8-10, absent any structural limitations of the recited elements, any relevant portion of the lifting apparatus of Dunlop could be considered an impact bumper, underride guard, or stacking member, respectively.

10. Claims 3-5 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al in view of Jensen, as applied to claim 1 above, and further in view of Drake (US 2,733,786).

The modified apparatus of Dunlop does not show the apertures in the second segment of the frame adapters to comprise parallel elongated slots arranged obliquely with respect to the first segment of the frame adapters.

Drake shows a steel angle bracket comprised of perpendicular segments each having plural holes therein, wherein the holes 16 (or 17) of one of the segments comprise parallel elongated slots arranged obliquely with respect to the other segment to enable adjustability of the brackets when using them for assembly purposes.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Dunlop by utilizing parallel, obliquely arranged, elongated slots in one of the segments of the frame adapters, as shown by Drake, to enable greater adjustment when assembling the lifting apparatus to the vehicle.

11. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al in view of Jensen and Drake, as applied to claims 1-15 above, and further in view of Mortenson (US 4,078,676, cited by applicant).

The modified apparatus of Dunlop does not show the precise arrangement of the parallelogram linkages, trunnion bar, and actuator as set forth in claim 16.

Mortenson, as described during prosecution of the parent application 09/811,237, shows a lifting apparatus with these features.


It would have been obvious for one of ordinary skill in the art at the time of the invention to have yet further modified the apparatus of Dunlop by arranging the parallelogram linkages, trunnion bar, and actuator in the manner shown by Mortenson, as this would simply be an art recognized alternate equivalent means of arranging the components of a lifting apparatus in the same environment, and would allow for a heavier duty type lifting device, it being noted that Dunlop discloses that the device may be "scaled up for use on larger trucks", such as that of Mortenson.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James Keenan  
Primary Examiner  
Art Unit 3652

jwk  
2/16/06